
SENATE BILL No. 479

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-34.

Synopsis: City of Marion food and beverage tax. Authorizes the city of Marion to establish a food and beverage tax to provide property tax replacement credits on inventory and other business personal property to taxpayers in the city.

Effective: Upon passage.

Kenley

January 14, 2002, read first time and referred to Committee on Rules and Legislative Procedure.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 479

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-9-34 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:
4 **Chapter 34. City of Marion Food and Beverage Tax**
5 **Sec. 1. This chapter applies to a city having a population of**
6 **more than thirty-one thousand (31,000) but less than thirty-two**
7 **thousand (32,000).**
8 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**
9 **chapter.**
10 **Sec. 3. As used in this chapter, "business personal property"**
11 **means:**
12 **(1) inventory (as defined in IC 6-1.1-3-11); and**
13 **(2) other tangible property (other than real property) that is**
14 **being:**
15 **(A) held for sale in the ordinary course of a trade or**
16 **business;**
17 **(B) held, used, or consumed in connection with the**



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production of income; or
(C) held as an investment.

Sec. 4. As used in this chapter, "property tax replacement credit" refers to an additional property tax replacement credit on business personal property located in a city described in section 1 of this chapter on an assessment date.

Sec. 5. (a) The fiscal body of a city may adopt an ordinance to impose an excise tax, known as the city food and beverage tax, on the transactions described in section 6 of this chapter.

(b) If a fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) If a fiscal body adopts an ordinance under subsection (a), the city food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance is adopted.

Sec. 6. (a) Except as provided in subsection (c), a tax imposed under section 5 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location or on equipment provided by a retail merchant;
- (2) in the city in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage sold on a "take out" or "to go" basis; or
- (3) sold by a street vendor.

(c) The city food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 7. The city food and beverage tax imposed on a food or beverage transaction described in section 6 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

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1 Sec. 8. The tax that may be imposed under this chapter shall be
 2 imposed, paid, and collected in the same manner that the state
 3 gross retail tax is imposed, paid, and collected under IC 6-2.5.
 4 However, the return to be filed for the payment of the taxes may be
 5 made on separate returns or may be combined with the return filed
 6 for the payment of the state gross retail tax, as prescribed by the
 7 department of state revenue.

8 Sec. 9. The amounts received from the taxes imposed under this
 9 chapter shall be paid monthly by the treasurer of state to the
 10 county auditor upon warrants issued by the auditor of state.

11 Sec. 10. (a) If a tax is imposed under section 5 of this chapter,
 12 the county treasurer shall establish a city food and beverage tax
 13 property tax replacement fund to be used solely for the purpose of
 14 providing additional property tax replacement credits to replace
 15 property taxes on business personal property imposed by taxing
 16 units in the city.

17 (b) The county auditor shall deposit in the fund all amounts
 18 received under this chapter.

19 (c) Any money earned from the investment of money in the fund
 20 becomes a part of the fund.

21 Sec. 11. The amount of the city food and beverage tax revenue
 22 deposited in the city food and beverage tax property tax
 23 replacement fund in a calendar year shall, in the manner
 24 prescribed in this chapter, be allocated to taxing units operating in
 25 the city and shall be used by the taxing units as property tax
 26 replacement credits.

27 Sec. 12. The amount of property tax replacement credits that
 28 each taxing unit in the city is entitled to receive during a calendar
 29 year under this chapter equals the lesser of:

30 (1) the product of:

31 (A) the amount of revenue deposited by the county auditor
 32 in the city food and beverage tax property tax replacement
 33 fund in the immediately preceding calendar year;
 34 multiplied by

35 (B) a fraction described as follows:

36 (i) The numerator of the fraction equals the sum of the
 37 total property taxes that would have been collected by
 38 the taxing unit during the previous calendar year from
 39 taxpayers located within the taxing unit district if the
 40 property tax replacement credit under this section had
 41 not been in effect.

42 (ii) The denominator of the fraction equals the sum of

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the total property taxes that would have been collected during the previous year from taxpayers located within the city by all taxing units that are eligible to receive property tax replacement credits under this chapter if the property tax replacement under this chapter had not been in effect; or

(2) the total property taxes that would otherwise be collected by the taxing unit for the calendar year if the property tax replacement credit under this chapter were not in effect.

Sec. 13. If the total amount of city food and beverage tax revenue deposited by the county auditor in the city food and beverage tax property tax replacement fund for a calendar year exceeds the total property tax liability that would otherwise be imposed for taxing units in the city for the year, the excess shall remain in the city food and beverage tax property tax replacement fund and shall be used for taxing unit property tax replacement purposes in the following calendar year.

Sec. 14. (a) If a taxing unit did not impose a property tax levy during the previous calendar year, the taxing unit is entitled to receive part of the property tax replacement credits to be distributed for the calendar year. The amount of property tax replacement credits the taxing unit is entitled to receive during the calendar year equals the product of:

(1) the amount of revenue deposited in the city food and beverage tax property tax replacement fund; multiplied by

(2) a fraction, the numerator of which equals the budget of the taxing unit for that calendar year and the denominator of which equals the aggregate budgets of taxing units in the city for that calendar year.

(b) If for a calendar year a taxing unit is allocated a part of the property tax replacement credits under subsection (a), the amount of property tax credits distributed to other taxing units in the city for the calendar year shall be reduced by the amount to be distributed as property tax replacement credits under subsection (a). The department of local government finance shall make any adjustments required by this subsection and provide the adjustments to the county auditor.

Sec. 15. The department of local government finance shall inform the county auditor of the amount of property tax replacement credits that each taxing unit in the city is entitled to receive under this chapter. The county auditor shall certify to each taxing unit the amount of property tax replacement credits that the

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1 taxing unit is entitled to receive during that calendar year. The
 2 county auditor shall certify the amount to the county treasurer.

3 **Sec. 16. (a)** A taxing unit receiving property tax replacement
 4 credits under this chapter shall allocate the credits among each
 5 fund for which a distinct property tax levy is imposed.

6 (b) The amount that must be allocated to each fund equals:

7 (1) the amount of property tax replacement credits provided
 8 to the taxing unit under this chapter; multiplied by

9 (2) the amount determined in STEP THREE of the following
 10 formula:

11 **STEP ONE:** Determine the property taxes that would have
 12 been collected for each fund by the taxing unit during the
 13 previous calendar year if the property tax replacement
 14 credits under this chapter had not been in effect.

15 **STEP TWO:** Determine the sum of the total property taxes
 16 that would have been collected for all funds by the taxing
 17 unit during the previous calendar year if the property tax
 18 replacement credits under this chapter had not been in
 19 effect.

20 **STEP THREE:** Divide the STEP ONE amount by the
 21 STEP TWO amount.

22 (c) If a taxing unit did not impose a property tax levy during the
 23 previous calendar year or did not impose a property tax levy for a
 24 particular fund during the previous calendar year, but the taxing
 25 unit is imposing a property tax levy in the current calendar year or
 26 is imposing a property tax levy for the particular fund in the
 27 current calendar year, the department of local government finance
 28 shall adjust the amount of property tax replacement credits
 29 allocated among the various funds of the taxing unit and shall
 30 provide the adjustment to the county auditor.

31 (d) If a taxing unit receiving property tax replacement credits
 32 under this chapter does not impose a property tax levy for a
 33 particular fund that is first due and payable in a calendar year in
 34 which the property tax replacement credits are being distributed,
 35 the taxing unit is not required to allocate to that fund a part of the
 36 property tax replacement credits to be distributed to the taxing
 37 unit.

38 **Sec. 17.** For each taxing unit that receives property tax credits
 39 under this chapter, the department of local government finance
 40 shall certify to the county auditor the property tax rate applicable
 41 to each fund after the property tax replacement credits are
 42 allocated.



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1 **Sec. 18. A taxing unit shall treat property tax replacement**
2 **credits received during a particular calendar year under this**
3 **chapter as a part of the taxing unit's property tax levy for each**
4 **fund for that same calendar year for purposes of fixing the taxing**
5 **unit's budget and for purposes of the property tax levy limits**
6 **imposed by IC 6-1.1-18.5, IC 6-1.1-18.6, IC 6-1.1-19, and any other**
7 **law.**

8 **Sec. 19. The property tax replacement credits that are received**
9 **under this chapter do not reduce the homestead credits provided**
10 **under IC 6-1.1-20.9 or the total county tax levy that is used to**
11 **compute the state property tax replacement credit under**
12 **IC 6-1.1-21. For purposes of computing and distributing certified**
13 **distributions under IC 6-3.5-1.1, IC 6-3.5-6, or IC 6-3.5-7 and tax**
14 **revenue under IC 6-5-10, IC 6-5-11, IC 6-5-12, IC 6-5.5, or**
15 **IC 6-6-5, the property tax replacement credits received under this**
16 **chapter shall be treated as though they were property taxes that**
17 **were due and payable during the same calendar year.**

18 **Sec. 20. The county auditor shall specify on the property tax**
19 **statement delivered to each taxpayer with property in the city the**
20 **amount of property tax replacement credits provided by the city**
21 **food and beverage tax.**

22 **Sec. 21. The amount of the property tax replacement credits to**
23 **which a taxing unit is entitled under this chapter shall be**
24 **distributed to each taxing unit at the same time as homestead**
25 **credits are distributed.**

26 **SECTION 2. An emergency is declared for this act.**

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